

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

BRANDON GOBER, #1942989.

Plaintiff,

V.

BRYAN COLLIER.

Defendant.

Case No. 6:21-cv-423-JDK-JDL

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Brandon Gober, a Texas Department of Criminal Justice prisoner proceeding pro se, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. This case was referred to United States Magistrate Judge John D. Love for findings of fact, conclusions of law, and recommendations for disposition.

On October 29, 2021, Judge Love issued a Report and Recommendation in this case. Docket No. 4. In that Report, Judge Love found that Plaintiff accumulated at least three strikes prior to filing this lawsuit pursuant to 28 U.S.C. § 1915(g). Accordingly, the Report recommended that the Court deny Plaintiff's motion to proceed *in forma pauperis* and dismiss this case with prejudice for the purpose of proceeding *in forma pauperis*. Judge Love further recommended that the case should proceed if Plaintiff paid the full filing fee within fifteen days of the dismissal order.


This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and

Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Plaintiff did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews his legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and Recommendations, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. The Court therefore **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 4) as the findings of this Court. Accordingly, it is hereby **ORDERED** that the complaint is **DISMISSED**, but without prejudice as to the refiling of his lawsuit without seeking *in forma pauperis* status. Finally, if Plaintiff pays the requisite \$402 filing fee within fifteen days of this Order, the lawsuit shall proceed as though the full filing fee had been paid from the outset.

So **ORDERED** and **SIGNED** this **8th** day of **December, 2021**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE